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Paper No. 3

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**FEB 1 1 2002**

**OFFICE OF PETITIONS**

In re Application of	:	
Ashley I. Bush, Rudolph E. Tanzi, Mikhal	:	
Xilinas and Robert Cherny	:	
Application No. 09/972,913	:	DECISION REFUSING STATUS
Filed: October 10, 2001	:	UNDER 37 C.F.R. §1.47(a)
Attorney Docket No. 0609.4540003	:	
Title: USE OF CLIOQUINOL FOR THE	:	
THERAPY OF ALZHEIMER'S DISEASE	:	

This is in response to the petition under 37 CFR §1.47(a)<sup>1</sup>, filed October 10, 2001.

The petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 C.F.R. §1.136(a).

The above-identified application was filed on October 10, 2001<sup>2</sup>. With the filing of this application, the applicant has further filed the present petition and fee<sup>3</sup>. Accompanying

<sup>1</sup> A grantable petition under 37 C.F.R. §1.47(a) requires:

- (1) the petition fee of \$130;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application;
- (3) a statement of the last known address of the non-signing inventors;
- (4) proof that diligent efforts have been made to locate the non-signing inventor;
- (5) a declaration which complies with 37 CFR 1.63.

<sup>2</sup> The declaration submitted upon filing contains the signatures of three of the four joint inventors, with inventor Xilinas being the non-signing inventor.

<sup>3</sup> The petition states that the petition fee was submitted via check no. 30288. As no check was received with the petition, the petition fee of \$130.00 has been charged to petitioner's Deposit Account, as authorized in the petition.

the petition was a declaration by Heidi L. Kraus, an attorney for the purported assignee, a copy of the letter which was sent to the non-signing inventor and his attorney, and a copy of the Federal Express tracking report.

The declarant sets forth that on January 2, 2001, a copy of the application was sent with the declaration to the last known address of the non-signing inventor, and a second copy was sent to his attorney. The Federal Express tracking report indicates that a person by the name of Xilinas signed for the package on January 4, 2001. On January 5, 2001, the non-signing inventor left a voicemail message for the declarant, where he acknowledged receipt of the package. On January 16, 2001, the declarant spoke with the inventor via telephone. The non-signing inventor refused to discuss the declaration, and insisted that the declarant speak with his attorney. On January 30, 2001, the declarant spoke with the attorney, and was informed that he advised the non-signing inventor against signing the declaration.

Rule 47 applicant has met requirements (1), (2), (3), (4), and (5) above.

Regarding requirement (6) above, it is determined that the Rule 47 applicant has failed to submit a declaration which complies with 37 CFR §1.63.

The declaration submitted to the inventor<sup>4</sup> fails to list the residence, citizenship, or post office address of inventor Cherny<sup>5</sup>. Hence, the declaration which the non-signing inventor was presented with fails to meet the requirements of 37 CFR §1.63.

On renewed petition, the petitioner should either provide the signature of the non-signing inventor, or provide a showing that declaration which complies with 37 CFR §1.63 has been submitted to him for his review.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

By FAX: (703) 308-6916  
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23  
2201 S. Clark Place  
Arlington, VA

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<sup>4</sup> It is noted that a copy of the declaration which was sent to the non-signing inventor has not been included with the petition. It is assumed that the declaration submitted for his review is identical to that included with the application upon filing.

<sup>5</sup> The application, as filed, contains four declarations. One is not signed, and each of the remaining three has been executed by one of the three signing inventors. Of the four declarations, only the copy executed by inventor Cherny contains his residence, citizenship, and post office address. This information appears to have been hand-written by the inventor upon signing.

Telephone inquiries regarding this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.

*per D Wood*

Beverly M. Flanagan  
Supervisory Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy